

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 10-294 (JNE/HB)

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )  
                                ) **JOINT MOTION TO REDUCE**  
v.                            ) **SENTENCE PURSUANT TO**  
                                ) **18 U.S.C. § 3582(c)**  
THEODORE STEVIE VARNER, )  
                                )  
Defendant.                 )

The parties to this case offer the following joint motion for the compassionate release of defendant Theodore Stevie Varner, pursuant to 18 U.S.C. § 3582(c)(1)(A)(i). This motion is based on the file and record herein and on any matters that come before the Court at or before any proceedings on its merits.

The parties agree that Mr. Varner's circumstances satisfy the "extraordinary and compelling reasons" standard under § 3582(c)(1)(A)(i).<sup>1</sup> The parties' investigations confirm that Mr. Varner suffers from conditions that elevate his risk of serious complications should he contract the coronavirus, including diabetes II. The Centers for Disease Control and Prevention ("CDC") has identified this condition as increasing his risk for severe illness from the virus that causes COVID-19 (*i.e.*, hospitalization, admission to the ICU, intubation or mechanical ventilation, or death). He also suffers from hypertension and hyperlipidemia, conditions recognized as ones that may also increase his risk of complications from the virus. Finally, in addition to the conditions recognized by the CDC as conditions that may increase his risk of severe illness or complications from the virus, Mr. Varner suffers from ambulatory issues, which require the use of a cane and wheelchair.

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<sup>1</sup> Documentation confirming Mr. Varner's medical conditions, disciplinary record, and rehabilitative programming are offered in further support of this motion, under seal.

The 18 U.S.C. § 3553(a) factors and consideration of community safety per U.S.S.G. § 1B1.13 (2) both support granting this joint motion. Mr. Varner has served well over half of the Court's 235-month sentence to date. He is scheduled for full release in June 2027. Further, Bureau of Prisons documents show (1) that Mr. Varner has one minor disciplinary incident during his time in BOP custody, and (2) that he has completed extensive rehabilitative programming. The Probation Office has investigated and approved his release plan, and based on its review of his post-sentence conduct recommends no additional supervision conditions beyond those ordered at the time of his sentencing. (ECF 134). The requested reduction is therefore consistent with the sentencing objectives outlined at 18 U.S.C. § 3553(a), on their own and as interpreted by the Supreme Court in *Pepper v. United States*, 562 U.S. 476, 490-93 (2011). Moreover, per U.S.S.G. § 1B1.13 (2), the foregoing indicates that Mr. Varner does not pose a danger to the safety of any other person or to the community, as provided in 18 U.S.C. § 3142(g).

The parties agree that Mr. Varner is eligible for release and seek an order reducing his sentence to the time he has served, and the conversion of the remainder of his sentence to a term of supervised release that runs from the day he is released from prison to June 29, 2027, the expected expiration of the imprisonment component of his sentence. *See* 18 U.S.C. § 3582(c)(1)(A) (when a court grants release it may "impose a term of . . . supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment."). The parties therefore ask the Court to exercise the discretion afforded to it under these circumstances, and to reduce Mr. Varner's sentence to the time he has served, subject to the supervision conditions that the Court imposed at his sentencing and the release plan approved by the U.S. Probation and Pretrial Services Office.

Dated: January 29, 2021

Respectfully submitted,

/s Deidre Aanstad

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